



Memorandum

To : Mr. Verne Walton

Date October 28, 1988

From : Eric F. Eisenlauer

Eric F. Eisenlauer

Subject: Proposition 58

This is in response to your memorandum of October 7, 1988 to Mr. Ken McManigal in which you request that we review additional questions raised by the San Diego County Assessor concerning the requirement of the signature of transferors and transferees for purposes of claims under Revenue and Taxation Code section 63.1.

The questions posed by the Assessor are as follows:

1. Parents are transferring their property to their three children with a 1/3 interest to each. Both parents as transferors sign the claim form but only two of the three children sign. In our opinion this would be a valid claim for the two children providing signatures resulting in 2/3rds of the property excluded under Prop. 58 and 1/3rd reappraised.
2. Parents transfer 50% of their property to their three children and only two of the children provide signatures. It would seem that 33.2% would be reappraised but the remaining 16.6% would be excluded.
3. Two parents own the property as joint tenants and transfer the property to their son. Only one parent applies for the exclusion and signs the claim form. This would be 50% excluded and 50% reappraised.

Revenue and Taxation Code section 63.1(d) provides in relevant part that "[t]he exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

- (1) A written certification by the transferee made under penalty of perjury that the transferee is a parent or child of the transferor.

- (2) A copy of a written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate made under penalty of perjury that the transferor is a parent or child of the transferor. . . ."

Based on the foregoing, our opinion with respect to each of the questions raised above is as follows:

1. The exclusion should be allowed as to the two transferees who provided the written certification required by section 63.1(d)(1) and disallowed as to the transferee who did not; i.e., 1/3 is reappraised and 2/3 is excluded from change in ownership.
2. This is the same as No. 1 except that since only a 50 percent interest is transferred by the parents, only 16-2/3 is reappraised. The suggestion that 33.2% be reappraised and 16.6% be excluded appears to be incorrect.
3. We agree that 1/2 would be reappraised and 1/2 excluded from reappraisal assuming the son provided the required written certification.

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cc: Mr. Richard H. Ochsner
Mr. Robert H. Gustafson